Richard Feasey
Public Policy Director

10 August 2005

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW TW-A325
Washington, DC 20554

Re: Vodafone Group Plc – *Ex Parte* Presentation
IB Docket No. 04-398

Dear Ms Dortch:

In a July 29, 2005 *ex parte* filing, AT&T Corp. ("AT&T") references the recent application submitted by Vodafone New Zealand to the High Court of New Zealand appealing the report of the New Zealand Commerce Commission on mobile termination rates.[1] AT&T would effectively have the Commission take the view that foreign regulators are infallible with respect to mobile call termination issues and would hold Vodafone to a legal and administrative standard different than that which AT&T has applied to itself in the U.S.

As AT&T correctly notes, Vodafone has exercised its rights to appeal the decisions of regulatory and other governmental bodies in a number of jurisdictions around the world. Vodafone assumes that AT&T does not dispute the right of Vodafone or other private parties affected by regulatory decisions to seek judicial review of those decisions. Indeed, AT&T itself has frequently availed itself of such rights in a variety of FCC regulatory proceedings in the United States, where the right to appeal administrative decisions is a fundamental and important part of the policymaking process.[2] The U.S. Government itself considers the availability of judicial review a fundamental component of a transparent and accountable telecommunications regulatory regime.[3]

Vodafone does not pursue litigation frivolously. In many cases, Vodafone has not appealed a National Regulatory Authority's ("NRA") intervention to require reductions in call termination rates. AT&T cannot seriously assert, however, that every decision by every foreign NRA on the matter of call termination is fully merited -- although AT&T effectively does so in its filing. Vodafone has consistently argued throughout these proceedings, in both the U.S. and abroad, that the setting of prices in the mobile call termination is a highly complex, market-specific matter on which there are

[1] AT&T Corp., *Ex Parte* Presentation in IB Docket No. 04-398, filed July 29, 2005.
[2] 47 U.S.C. § 402; 5 U.S.C. § 706; *see, e.g., AT&T v. FCC*, No. 03-1431 (D.C. Cir. 2005) (appeal of tariff-related decision); *AT&T v. FCC*, No. 03-1035 (D.C. Cir. 2004) (appeal of FCC decision to allow BOC affiliate safeguards to sunset); *AT&T v. FCC*, 323 F.3d 1081 (appeal of FCC forfeiture penalty for "slamming" violations).
[3] *See* Office of the United States Trade Representative, *Annual Reform Recommendations from the Government of the United States to the Government of Japan under the U.S.-Japan Regulatory Reform and Competition Policy Initiative*, Annex at 1 (Oct. 14, 2004) ("urg[ing] Japan to take concrete steps to facilitate reconsideration and judicial review of regulatory decisions" as part of recommendations to promote regulatory independence and transparency in telecommunications regulation).

Vodafone Group Services Limited
Group Public Policy
Bell House, The Connection, Newbury, Berkshire RG14 2FN, England
Telephone: +44 (0)1635 674 992, Facsimile: +44 (0)1635 238 042

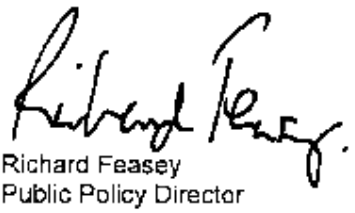
Registered Office: Vodafone House, The Connection, Newbury, Berkshire RG14 2FN, England. Registered in England No. 3802001

legitimate grounds for difference. Where a party believes, as does Vodafone New Zealand, that a decision on an intercarrier compensation matter strikes the wrong balance, it would be surprising if there were *not* litigation to resolve and clarify these matters, as has often been the case in the United States.[4]

Judicial review is as much a legitimate and important component of the regulatory process in foreign jurisdictions as it is in the United States itself. Under any circumstances it is critical that NRAs follow their own rules, precedents, and organic statutes. While it is often easy to mischaracterize litigants' motives as "anti-consumer," lawmakers around the world have recognized that protecting regulatees' legitimate due process rights is critical to the legitimacy of a regulatory regime that facilitates market-based competition. In this light, AT&T's arguments plainly lack merit and should be disregarded as the Commission considers these issues in the instant proceeding.

Respectfully submitted,

Yours sincerely



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[4] *See, e.g.*, *AT&T v. FCC,* 363 F.3d 504, (D.C. Cir. 2004)("challeng[ing] the Commission's latest revision of the compensation amount" for payphone providers); *AT&T v. FCC*, 349 F.3d 629 (D.C. Cir. 2003) (appeal of FCC decision finding that AT&T not obligated to pay access charges Sprint PCS billed to AT&T); *Sprint Corp. et al. v. FCC*, 315 F.3d 369 (challenge to FCC payphone compensation rules); *AT&T v. FCC*, 292 F.3d 808 (D.C. Cir. 2002) (appeal of FCC decision concerning IXCs' access charge payment obligations).